

With respect to the "species", it is not readily apparent to the undersigned what features are understood by the examiner to distinguish Figs. 1-8 (I), Figs. 9-11 (II) and Fig. 12 (III). Applicant assumes that the difference which the Examiner is relying upon is essentially related to the formation of the tube and/or proximity of the connector to the end tube, where:

- I. Figs. 1-8 illustrate the tubes 50 as being discrete members (such as may be formed by extrusion), with the connector "indirectly proximate" the last tube (*i.e.*, with a side wall and fins located between the connector and last tube, see page 10, line 24 to page 11, line 1).
- II. Figs. 9-11 illustrate the tubes formed by plates 180 secured together on their sides, with the connector also "indirectly proximate" the end tube.
- III. Fig. 12, like Figs. 9-11, illustrate the tubes formed by plates 180 secured together on their sides, with a connector in direct proximity to the end tube (this latter point, relating to proximity of the connector to end tube, is the only apparent difference between Figs. 9-11 and Fig. 12).

While Figs. 1-8 (in Figs. 1-5) show a compact cooling system using a plurality of heat exchangers, the remaining Figures (6-12) show alternate heat exchangers which may all be used in such a system (see page 5, lines 11-17). Accordingly, it is assumed that the referenced "first species of Figures 1-8" is meant to distinguish the heat exchangers of Figs. 9-11 and Fig. 12 from the heat exchanger of Figs. 6-8.

If the manner of forming the tubes is a basis for distinguishing species (*i.e.*, species I vs. species II and III), Applicant respectfully traverses the restriction requirement. The improvement in compactness of the structure which flows from the present invention is obtained independent of the precise manner in which the tube passages themselves are formed. (If proximity of last tubes to connectors is a basis of distinguishing species, *all* of the claims cover both species, *i.e.*, both "direct" and "indirect" proximity.)

Give the above understanding regarding what the Examiner means by the different "species", the claims are believed to cover these species as follows:

Species	Covered by claims:				
I	9, 11, 13		15		18
II	9, 11, 13	14	15	16-17	
III	9, 11, 13	14	15	16-17	

Accordingly (and, again, given the above understanding), Applicant's provisionally elected species I is covered by claims 9, 11, 13, 15 and 18. Of these, contrary to the Office Action's assertion that no claims appear to be generic, claims 9, 11, 13 and 15 are submitted to be generic to all three spe-

cies.¹ Further, the only claims (nos. 14 and 16-17) which do not cover species I are distinguished from species I only in that they recite that the tubes are formed by flat members. With respect to the other feature apparently used to distinguish between the species (direct vs. indirect proximity of the connector to the last tube, the only distinction between species II and III), none of the claims are limited in this respect. All require proximity, but none require only "direct" proximity or only "indirect" proximity. Given this, it is respectfully submitted that the Examiner is not truly faced with a burden of examination which is unreasonable in the time allotted for examination. Accordingly, it is respectfully submitted that all of the claims should be examined.

With respect to the requested translations, it should be noted that the Information Disclosure Statement complied with 37 C.F.R. 1.56(a) and 37 C.F.R. 1.98(a)(3)(i) by providing a concise explanation of the relevance of the cited prior art not in the English language. Additional information and explanation of those references was generated in response to issues raised in the first Office Action, with such explanation which is not apparent from the figures of those references having been received from German counsel (please note that the application was originally filed in Germany). Undersigned counsel has inquired whether any English language translations exist, but none have been

¹Claim 18 recites a header having a wall with a plurality of tube openings, which structure is typically used with discrete tubes such as shown in Figs. 7-8 and not the tubes formed by flat members as in species II and III.

found. If the Examiner still feels translations are necessary, it is suggested that he obtain them from the translation services which the PTO makes available to patent examiners.

In short summary, examination of all of the claims is submitted to be appropriate. It is believed that the case is in condition for allowance, with all of pending claims 9, 11, and 13-18 allowable. Early notification to that effect is respectfully requested.

If the Examiner has any questions regarding this response, he is invited to telephone the undersigned.

Respectfully submitted,

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